

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number 038190/233578

(filed with the Notice of Appeal)

Application Number 09/846,424

Filed May 1, 2001

First Named Inventor Joseph Lee Shriver, et al.

Art Unit 3689

Examiner Michael J. Fisher

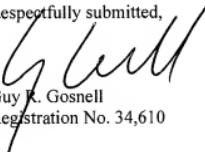
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

Respectfully submitted,


Guy R. Gosnell

Registration No. 34,610

Date July 22, 2009**Customer No. 000067141****ALSTON & BIRD LLP**

Bank of America Plaza

101 South Tryon Street, Suite 4000

Charlotte, NC 28280-4000

Tel Charlotte Office (704) 444-1000

Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE

UNITED STATES PATENT & TRADEMARK OFFICE ON July 22, 2009.

Attachment

Reasons for Requesting Pre-Appeal Brief Request For Review

The Office Action maintains the rejection of Claims 1-29 under 35 U.S.C. 103(a) as being obvious over U.S. Patent No. 6,889,197 to Derek Lidow (hereinafter "the Lidow '197 patent"). Based on the following remarks, it is respectfully requested that the application be reconsidered and the claims be allowed.

Independent Claim 1 generally recites a supply chain visibility system including a processing element for generating graphical user interfaces for presenting a) an initial release panel for displaying a preliminary configuration to facilitate negotiations between the suppliers and the at least one recipient as to changes in the preliminary configuration and establishment of an associated delivery schedule whereby the initial release panel is changeable by the suppliers as desired prior to creation of a final configuration and subsequent shipment of the parts, b) a configuration panel for displaying an agreed-upon final configuration and delivery schedule in which the final configuration includes changes from the preliminary configuration proposed by one or more suppliers, c) a template panel for displaying a common set of parts to each of a plurality of effectivities, d) a statement of work panel for displaying a required final set of parts for each of the effectivities derived from the common set of parts and e) a shipping entry panel configured to receive shipping status data on actual parts being shipped from the suppliers and needed to complete the required final set of parts. The processing element of independent Claim 1 is also configured to compare the shipping status data received by the shipment entry panel to the shipping status of the actual parts and to update the shipping status of the actual parts.

The Lidow '197 patent describes a supply chain architecture having a centralized supply chain server that is communicably connected to customers, suppliers, logistics providers, carriers and financial institutions. The supply chain server receives forecasts from customers detailing the customers' orders. The supply chain server analyzes these forecasts to ensure that the forecasts conform to contractual arrangements and do not contain errors. Once the forecast is validated, the supply chain server sends the forecasted demands to at least one supplier. The supply chain server then controls processes involved in the distribution of the product from the suppliers to the customers including the generation and payment of invoices.

As noted above, independent Claim 1 recites, among other elements, a processing element configured to generate "an initial release panel operable to display a preliminary configuration to facilitate negotiations between the suppliers and the at least one recipient as to changes in the preliminary configuration and establishment of an associated delivery schedule". Thereafter, the

processing element is configured to generate "a configuration panel operable to display a final configuration and delivery schedule agreed to by the suppliers and the at least one recipient and incorporating changes to the preliminary configuration from one or more suppliers". As described on page 10, lines 8-31 and page 11, lines 14-25 of the present application, the supply chain visibility system permits a recipient, such as a customer, to propose a preliminary configuration and then to enter into negotiations with the suppliers, both as to changes in the preliminary configuration itself and to establish an appropriate delivery schedule.

In response, page 3 of the Official Action indicates that "an initial release panel that can display a preliminary configuration to facilitate negotiation (fig 3), changes would be incorporated inherently if they were decided on and further, Lidow teaches allowing changes if there are problems (fig 14)".

Notwithstanding the position taken by the Official Action, Applicants submit that the Lidow '197 patent does not teach or suggest an initial release panel operable to display a preliminary configuration to facilitate negotiations between the suppliers and the at least one recipient, nor a configuration panel that incorporates changes to the preliminary configuration from one or more suppliers. As previously explained, the Lidow '197 patent does not teach or suggest any process for permitting suppliers to make changes to a preliminary configuration prior to the generation of the final configuration and the delivery schedule. Instead, the Lidow '197 patent describes a process in which a customer submits its demand for a desired product to a supply chain server. After validating the customer demand, such as by insuring that it is complete and in a standard format, orders are then issued in accordance with the Lidow '197 patent to one or more suppliers to fulfill the customers demand. The supplier, in turn, merely provides parts in accordance with the demand identified by the customer.

In support of its rejection, the Official Action pointed to FIG. 3 of the Lidow '197 patent in regards to the display of an initial release panel to facilitate negotiations between the suppliers and at least one recipient. However, the process depicted in FIG. 3 describes a process performed by the supply chain server and in no way involves the supplier in any manner that would permit the supplier to change the preliminary configuration. Moreover, the reference by the Official Action to the process by which a supplier is involved in the return of an unsatisfactory part is also distinctly different from the changes to the preliminary configuration that are provided by the suppliers in response to the initial release panel as set forth by independent Claim 1. In this regard, the final configuration that incorporates the changes to the preliminary configuration provided by one or more suppliers are displayed along with the delivery schedule such that the initial display of the preliminary configuration, the changes to the preliminary configuration introduced by the suppliers and the resulting display of the final configuration all occur prior to delivery of the parts. As such, any technique for returning

unsatisfactory parts that is described by the Lidow '197 patent is distinctly different and does not teach or suggest the manner in which the supply chain visibility system of independent Claim 1 permits suppliers to change the preliminary configuration prior to generation of the final configuration and the associated delivery schedule.

In order to further highlight the patentable distinctions of the supply chain visibility system relative to the Lidow '197 patent, independent Claim 1 also recites that "the preliminary configuration displayed by the initial release panel is changeable by the suppliers as desired prior to creation of a product configuration and subsequent shipping of the parts". As such, independent Claim 1 makes explicit the relative timing of the changes provided by the suppliers to be prior to the creation of the final configuration and prior to any subsequent shipment of the parts. In this regard, changes to the preliminary configuration from one or more of the suppliers may be incorporated into the final configuration along with the agreed-upon delivery schedule prior to generating the statement of work and other related documentation, such as purchase orders, etc. Moreover, independent Claim 1 makes clear that the changes to the preliminary configuration that are provided by the suppliers are any changes that are desired by the suppliers and not just, for example, changes attributable to the return of an unsatisfactory part.

By fostering a collaborative negotiation between the suppliers and the recipient during an early stage of the process, it is anticipated that subsequent changes to the final configuration can be reduced and efficient operation of the supply chain can be facilitated. While a supply chain visibility system as set forth by independent Claim 1 can be useful in a variety of applications, the supply chain visibility system of independent Claim 1 which includes initial collaboration between the suppliers and the recipient prior to the establishment of the final configuration and the associated delivery schedule is particularly useful in the context of a supply chain for a complex product, such as an aircraft, in which at least some of the parts or services are order dependent in that certain steps of the assembly process must be performed before other steps can be begun or completed and in which delay can result in substantial lost revenue.

As described above, the Lidow '197 patent does not teach or suggest the changing of a preliminary configuration by suppliers as desired prior to the creation of the final configuration and subsequent shipping of the parts, as set forth by independent Claim 1. Instead, the Lidow '197 patent does not appear to permit supplier input into the process of defining the final configuration of an effectiveness and, as such, does not permit a supplier to change a preliminary configuration in any manner that a supplier would desire prior to creation of the final configuration. Moreover, any involvement of a supplier in the return of an unsatisfactory product as described by the Lidow '197

patent is distinctly different and does not teach or suggest changes introduced by the suppliers to a preliminary configuration prior to the creation of the final configuration and subsequent shipment of the parts. Indeed, the replacement of a defective part would not appear to change the configuration of an effectiveness, but would, instead, simply provide functional parts to form the configuration.

The Official Action on page 5 indicates that the "preliminary configuration" being changeable ... is an obvious modification, any orders that can be changed would need such a system in order to allow changes. Therefore, only if an order is unchangeable would such a system not be needed." Notwithstanding the contentions raised by the Official Action, however, the Lidow '197 patent does not disclose the changing of a preliminary configuration by suppliers as desired prior to the creation of the final configuration and subsequent shipping of the parts, as set forth by independent Claim 1. Moreover, the Lidow '197 patent does not suggest or other render obvious the changing of a preliminary configuration by suppliers as desired prior to the creation of the final configuration and subsequent shipping of the parts since the Lidow '197 patent does not appear to permit any supplier input or collaboration into the process of defining the final configuration, as described above..

For the reasons above, it is submitted that the Lidow '197 patent fails to teach or suggest Claim 1 of the present application. In a manner similar to Claim 1, independent Claim 16 also generally recites, among other things:

displaying, using an initial release panel of each graphical user interface, a preliminary configuration;

receiving changes from and as desired by the suppliers to the preliminary configuration displayed by the initial release panel prior to creation of a final configuration and subsequent shipment of the parts;

negotiating as to changes in the preliminary configuration and establishment of an associated delivery schedule, wherein negotiating comprises receiving changes to the preliminary configuration from one or more suppliers;

displaying, using a configuration panel of each graphical user interface, [[a]] the final configuration and delivery schedule agreed to by the suppliers and the at least one recipient and incorporating changes to the preliminary configuration from one or more suppliers

As described above in conjunction with independent Claim 1, the Lidow '197 patent fails to teach or suggest receiving changes from and as desired by the suppliers to the preliminary configuration displayed by an initial release panel prior to creation of a final configuration and subsequent shipment of the parts. Since the Lidow '197 patent does not receive changes from the

suppliers to the preliminary configuration, the Lidow '197 patent also fails to teach or suggest displaying the final configuration and delivery schedule that incorporates the changes to the preliminary configuration from the one or more suppliers, as set forth by independent Claim 16. Instead, the Lidow '197 patent merely describes the suppliers fulfilling the consumer demand without permitting the suppliers to make changes to a preliminary configuration that are subsequently reflected in a final configuration, as also recited by independent Claim 16.

Thus, Claim 16 is not taught or suggested by the Lidow '197 patent for at least the same reasons as described above in conjunction with Claim 1. The remaining Claims 2-15 and 17-29 depend from independent Claims 1 or 16 and are therefore patentably distinct from the Lidow '197 patent for at least the same reasons as described above in conjunction with the respective independent claims. The rejections of Claims 1-29 under 35 U.S.C. 103(a) have therefore been overcome.

Additionally, dependent Claims 30 and 31 were newly added in the prior Amendment and serve to define other unique aspects of the present invention. In this regard, dependent Claim 30 recites that "the processing element is further configured to generate a new parts list panel that is filled by one or more suppliers with a list of parts that comprise a proposed configuration, wherein the processing element is configured to generate the new parts list panel prior to the initial release panel with the preliminary configuration provided by the initial release panel at least partially based upon the new parts list panel." Dependent Claim 31 includes comparable recitations in the context of a method. See, for example, page 10, lines 8-14 of the present application as well as FIG. 9. As such, prior to even the generation of the preliminary configuration, a new parts list panel is generated that is then filled by one or more suppliers with a list of parts that the one or more suppliers believe necessary to fabricate a particular effectivity. This list of parts that has been provided by the suppliers is then used to create the preliminary configuration that is published to the suppliers and to which the suppliers may make changes as described above. By permitting the suppliers to populate the new parts list, the recipient is not only relieved of effort required to create the new parts list, but also the recipient enjoys the benefit of the suppliers' experience.

The Lidow '192 patent does not teach or suggest the generation of a new parts list panel and the filling of the new parts list panel by one or more suppliers as set forth by dependent Claims 30 and 31. Indeed, the Lidow '192 patent does not appear to involve the suppliers in the definition of the configuration of an effectivity and, instead, only places orders with the suppliers to satisfy the customers' request. As such, dependent Claims 30 and 31 are also submitted to be patentably distinct from the Lidow '192 patent for at least this additional reason.